

EXHIBIT28

CL1

PEOPLE OF THE STATE OF NEW YORK/BRONX COUNTY

VS

INV. INTO DEATH OF ALBERT ACOSTA,

* * * * *

PRESENTED BY: A.D.A. SCACCIA/TD-B52

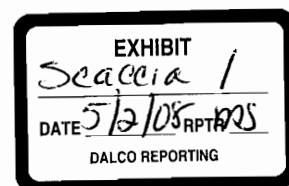
REPORTED BY: CHERYL LAUREL

DATE: APRIL 16, 2001

PANEL & TERM: F PANEL & 5TH TERM

GRAND JURY #: 42,140

DOCKET #: IBNA



1 MR. SCACCIA: Good afternoon, ladies and
2 gentlemen, my name is Christine Scaccia. I'm a
3 Senior Trial Assistant in Trial Division B-52.

4 This is the case, an investigation into the
5 death of Albert Acosta

6 I would now ask the Foreperson to determine
7 whether a quorum is present

8 THE FOREPERSON: Let the record reflect that a
9 quorum is present.

10 MS. SCACCIA: Ladies and gentlemen, before we
11 begin hearing evidence in this case I'm going to give
12 you a publicity charge.

13 You should not read, listen, or watch news
14 accounts about matters being presented to you. In
15 the event that you have read or heard news accounts
16 about a case before evidence concerning that case
17 while it is pending before you, you must disregard
18 anything that you have read or heard, other than that
19 which is submitted to you as evidence.

20 If you have read or heard anything in the news
21 media about a case, you must not communicate that
22 information to your fellow Grand Jurors. If, because
23 of something you have read or heard about a case, you
24 feel that you can no longer be impartial and cannot
25 reach a determination about a case solely on the

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1 basis of the evidence and instructions presented, you
2 must tell the Foreperson and the Assistant District
3 Attorney.

4 Remember, that you should not discuss the case
5 being presented to you with anyone other than your
6 fellow Grand Jurors and the Assistant District
7 Attorney. You may only form an opinion about a case
8 on the evidence presented, only after the case has
9 been submitted to you by the Assistant District
10 Attorney with specific legal instructions applicable
11 to the case before you.

12 At the end of the case the Assistant District
13 Attorney who presented it will give you charges for
14 your consideration.

15 If more than one defendant is presented you must
16 consider and vote the charges submitted to you as to
17 each defendant individually. You may not necessarily
18 be re-read law on each charge. Now if you do not
19 remember the law or if you are confused or have
20 questions please feel free to ask the Assistant
21 District Attorney presenting the case.

22 Now, given the nature of the date of
23 February 12th of the year 2001, at the location of
24 1700 Metropolitan Avenue here in Bronx County, and
25 the death of Albert Acosta.

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1 Is there anyone who knows anything about this
2 case that would influence them in anyway?

3 Seeing no show of hands, the People are going to
4 begin their presentation of the evidence with the
5 calling of Mr. Terrence Alston.
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CL5

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2 TERRENCE ALSTON, after having been duly sworn,
3 testified as follows:
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5 EXAMINATION BY MS. SCACCIA:
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7 Q. Mr. Alston, you have to keep your voice up
8 nice and loud so everyone can hear you.

9 Please state your full name and the county you
10 live in?

11 A. Terrence Alston, Bronx.

12 Q. Mr. Alston, how old are you?

13 A. Thirty-four.

14 Q. Are you familiar with the location of
15 1700 Metropolitan Avenue here in Bronx County?

16 A. Yes.

17 Q. How is it that you are familiar with that
18 location, sir?

19 A. I live in Parkchester, I live in the area.

20 Q. How long have you lived in the area?

21 A. Since '94.

22 Q. I want to draw your attention now going
23 back to on or about October 1st, of the year 2000.

24 Were you living in Parkchester that day?

25 A. Yes.

CL6

1 Q. Can you please tell the Members of the
2 Grand Jury if anything unusual took place at about
3 that time?

4 A. Yes.

5 Q. What happened?

6 A. A security officer approached me about
7 accepting a contract to kill another security
8 officer.

9 Q. Now, where were you when this security
10 officer approached you?

11 A. In front of my building, 1560 Unionport
12 Road.

13 Q. Have you ever talked to this security
14 officer before?

15 A. No.

16 Q. When he approached you, did he call you by
17 name?

18 A. Yes, he called me by my nickname, Murdock.

19 Q. Now, when he first approached you, were you
20 alone or with other people?

21 A. I was with my family.

22 Q. Did you go somewhere to talk to him or did
23 he say this in front of your family?

24 A. No, we went over to the other side and
25 talked.

CL7

1 Q. Now, what exactly to the best of your
2 recollection did this security officer say to you and
3 what if anything did you say back to him?

4 A. He asked me would I accept a contract to
5 kill another security officer. I told him, yes.

6 Q. Did he tell you why?

7 A. He said it was over a little conflict, over
8 a girl.

9 Q. Now, was there ever an arrangement made
10 about a price?

11 A. No.

12 Q. Was there any inquiry made about the price?

13 A. I told him I'll get back to him about the
14 price.

15 Q. Now, this security officer, did you ever
16 have any other conversations after that?

17 A. Yes, a couple of days later.

18 Q. Okay. How did that happen?

19 A. He approached me, he gave me a master key
20 to the building to get to the basement. He showed me
21 where I was going to do it, and he also asked me if I
22 had a gun. He told me he would give me a gun. I
23 told him I had a gun already, I didn't need a gun.

24 Q. Now, this master key, what is that master
25 key for?

CL8

1 A. To get to the basements and the tunnels.

2 Q. Now you are a tenant in Parkchester?

3 A. Yes.

4 Q. Do tenants have access to the basement or
5 tunnels?

6 A. No.

7 Q. This master key that he gave you, it would
8 allow you access to the basement and tunnels?

9 A. Yes.

10 Q. Did he tell you who the security officer
11 was that he wanted to kill?

12 A. No.

13 Q. Other than discussing that, did he tell you
14 when he wanted it to take place?

15 A. No.

16 Q. Did he discuss with you how it would take
17 place?

18 A. Yes.

19 Q. Could you tell the Members of the Grand
20 Jury, describe how it was going to take place?

21 A. It was going to happen over in the 1700
22 area of the Parkchester basement. He would lure him
23 down to the basement to where I would be at.

24 Q. Now, on this second location, did he talk
25 to you about prices again?

CL9

1 A. No.

2 Q. Mr. Alston, did there come a time when you
3 actually carried out this contract for this security
4 officer?

5 A. No.

6 Q. Why is that, sir?

7 A. I got incarcerated October 16th.

8 Q. Of 2000?

9 A. Yes.

10 Q. During the date of February 12th of 2001,
11 were you still incarcerated?

12 A. Yes.

13 Q. The security officer who approached you on
14 those two occasions, Mr. Alston, do you know his name
15 to be Anthony Maganello?

16 A. Yes.

17 MS. SCACCIA: I have no further questions of
18 this witness.

19 Do the Members of the Grand Jury have any
20 questions?

21 Anyone else?

22 Q. Mr. Alston, prior to you having this
23 conversation with the security officer by the name of
24 Anthony Maganello, had you ever seen him in the area
25 before?

CL10

1 A. Yes.

2 Q. When you were living in the area during the
3 time of October of the year 2000, were you hanging
4 out in a particular place?

5 A. Yes.

6 Q. Were you always there in the same area?

7 A. Yes.

8 Q. Had you ever seen him when you hung out in
9 the area in the past?

10 A. Yes.

11 Q. My Alston, when you were initially
12 approached by the security officer to do this
13 contract, were you physically incapacitated in any
14 way?

15 A. I was shot up. I was shot three times,
16 once in my head, one in the left arm and one in my
17 right leg.

18 Q. How much before this conversation with the
19 security guard did this happen?

20 A. Like right about two weeks after I came out
21 of the hospital.

22 Q. When were you shot?

23 A. I was shot August 22nd of 2000.

24 Q. From the time that you got out of the
25 hospital until October when you had this conversation

CL11

1 were you immobilized, were you walking?

2 A. No, I was in a wheelchair.

3 MS. SCACCIA: Anyone else?

4 Seeing no show of hands, this witness is
5 excused.

6 Thank you.

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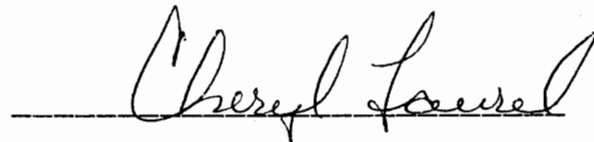
CL12

C E R T I F I C A T I O N

I, CHERYL LAUREL, a Grand Jury Reporter
within and for the State of New York, County of the
Bronx, do hereby certify:

That the within transcript is a true and
accurate record of the testimony given in the case of
the People of the State of New York versus
INV. INTO DEATH OF ALBERT ACOSTA in the F PANEL & 4TH
on APRIL 16, 2001.

IN WITNESS WHEREOF, I have hereunto set my
hand this 17TH day of APRIL, 2001.

A handwritten signature in cursive script, reading "Cheryl Laurel", is written over a horizontal line.

CHERYL LAUREL

CL1

INVESTIGATION INTO DEATH OF ALBERT ACOSTA

A.D.A. SCACCIA/TD-B52

FROM: 4/16/2001

DATE: APRIL 18, 2001

F PANEL & 4TH TERM

REPORTER: CHERYL LAUREL

GJ #: 42,140

DOCKET: IBNA

* * * * *

MS. SCACCIA: For the record, good afternoon,
ladies and gentlemen, my name is Christine Scaccia,
I'm an Assistant District Attorney in Trial Division
52.

This is a continuation of the investigation into
the death of Albert Acosta

I will now ask the Foreperson to determine
whether a quorum is present.

THE FOREPERSON: Let the record reflect that a
quorum is present.

MS. SCACCIA: The People now call Walter Cobb.

CL2

1 .
2 WALTER COBB, after having been duly sworn,
3 testified as follows:
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5 EXAMINATION BY MS. SCACCIA:
6

7 Q. Mr. Cobb, could you state your full name
8 and county of residence for the Members of the Grand
9 Jury.

10 A. Walter William Cobb, county of residence is
11 the Bronx.

12 Q. Mr. Cobb, are you employed?

13 A. Yes, ma'am.

14 Q. For who do you work?

15 A. Parkchester, Bronx, New York.

16 Q. Okay. What type of work do you do?

17 A. Maintenance.

18 Q. How long have you done that, sir?

19 A. Eleven years now.

20 Q. I want to direct your attention to
21 February 12th of 2001, specifically to the building
22 of 1700 Metropolitan Avenue here in Bronx county.
23 Were you present at that building on that day?

24 A. Yes, ma'am, I was.

25 Q. Now, is that the building that you're

CL3

1 normally assigned to Mr. Cobb?

2 A. No, ma'am, I'm not.

3 Q. How did you become assigned to that
4 building that day?

5 A. I'm known as a miscellaneous person. I
6 fill in for people that call in sick or out that day.
7 I was sent to that building.

8 Q. Now, what time did you start work that day?

9 A. 8:00 in the morning.

10 Q. Okay. About what time did you get over
11 towards 1700 Metropolitan?

12 A. About 10:00 a.m. or ten minutes after
13 10:00, 10:10.

14 Q. When you approached that building how were
15 you going to go inside of that building, were you
16 going through the front door or were you using
17 another door?

18 A. Well, the rear door is situated on the
19 avenue itself. I approached the rear door.

20 Q. Now, this rear door is that a doorway to
21 the public or do the tenants have access?

22 A. Yes, ma'am.

23 Q. How do you get into that door?

24 A. Well, we use what we call a com key and
25 it's electronically controlled and you push the door

CL4

1 and it opens.

2 Q. So it's a electronic lock?

3 A. Yes, ma'am.

4 Q. Do the tenants have such a electronic key?

5 A. Yes, they do.

6 Q. So tenants can go through the door?

7 A. Yes, if you live in the building cause each
8 com key is assigned different codes for different
9 buildings.

10 Q. Now, as you were approaching 1700
11 Metropolitan Avenue, did something unusual take
12 place?

13 A. As I approached the rear exit which is on
14 the avenue itself I heard what appeared to be a
15 muzzle, four shots.

16 Q. Four gunshots?

17 A. At least four gunshots, at least four or
18 five steps before I hit the door, approach the door.

19 Q. Now, these gunshots did they happen one
20 right after the other or was there a pause?

21 A. Two first and then two after. There was a
22 slight pause between the four.

23 Q. Okay. Now, as you approached the doorway
24 -- is there a time when you get right in front of the
25 door?

CL5

1 A. I just dismissed it immediately from my
2 mind, almost immediately and I approached the door.

3 Q. Okay. What happened when you approached
4 the door?

5 A. I was using my com key when the door flew
6 open. I was trying to enter the building, the door,
7 someone from inside opened the door.

8 Q. Now this door, how does it open, do you
9 push it in, how does it open?

10 A. You push it in.

11 Q. As soon as the door flew open from inside
12 did you see anyone on the other side of the door?

13 A. Yes, I did.

14 Q. Who was on the other side of that door?

15 A. This man which I know is named
16 Maganello was stepping out.

17 Q. Now, this man, Maganello, where do you know
18 him from?

19 A. I don't know him personally, but I know
20 he's a security person on the Parkchester premises
21 itself.

22 Q. Okay. When he opened the door, did the two
23 of you have any sort of conversation?

24 A. I said to him re-calling the four shots
25 which was four shots, I thought I heard four shots.

CL6

1 I did not get to open the door, he opened from the
2 inside he says to me, yes, I did two. Then he
3 pointed over my left shoulder you go that way and
4 I'll go this way.

5 Q. Meaning for you to go that way and he'll go
6 another way.

7 A. I still had yet to enter the building.

8 Q. Now, when he told you, you go this way and
9 I'll go that way, did you comply with his directions
10 or did you --

11 A. I just ignored him and I entered the
12 building. He bypassed me and went out. I entered
13 the building through the door.

14 Q. What portion of the building did you go in?

15 A. Well, in Parkchester they are termed
16 terrace floors, because certain tenants live on those
17 floors.

18 Q. Okay. This is below the lobby level?

19 A. Yes.

20 Q. In this particular building are there
21 occupied apartments there, if you know?

22 A. No, they are different apartments, but not
23 apartments per se. It's a garbage room, compactor
24 room, carriage room where people store things.

25 Q. When you went into the building after you

CL7

1 spoke to Officer Maganello, was there anybody else
2 down there that you encountered?

3 A. Yes, I encountered -- on my left first
4 there was one door which is the pick-up station where
5 the garbage is, it was closed.

6 The second door was open and there was a
7 repairman, a telephone repair man from Verizon, he
8 was working at the wires, the telephone wires.

9 Q. Did you speak with him?

10 A. Briefly I stopped and said hello, hey guy
11 how are you. Then he proceeded walking. I proceeded
12 walking towards the back of the floor where the
13 compactors are.

14 Q. The garbage compactors?

15 A. Yes.

16 Q. What were doing there?

17 A. I was picking out the trash. I was keeping
18 myself busy. We started from the basement and I cut
19 a few bags to check down on the floors, and he called
20 me over.

21 Q. Who called you over?

22 A. The Verizon man, the telephone repairman.

23 Q. When he called you over, what if anything
24 did he ask you?

25 A. He wanted to know if the adjacent room, the

CL8

1 room opposite to where I was, if I had keys because
2 he wanted to see another outlet box for the telephone
3 line.

4 Q. Okay. The door he was pointing to, was it
5 locked?

6 A. Yes.

7 Q. Did you have keys for that door?

8 A. I happen to be in that building for the
9 first time that day. I was not assigned that day,
10 because the other fellow was away sick. So, I said
11 let me try these keys, I'm new here today, sure
12 enough one of my keys opened the door.

13 Q. When you opened the door to this room,
14 what's in the room?

15 A. Well, in the room was total darkness. I
16 did not think anything. The Verizon guy turned on
17 the light, we both went in briefly, looked inside, no
18 box, we stepped away. I went back to my room, he
19 went back to his.

20 Q. You closed the door again or left it open?

21 A. It was left open.

22 Q. Was there anything to keep the door open?

23 A. The door was -- I opened the door, he was
24 standing next to me. In Parkchester in the basement
25 we usually keep, we have a cobblestone that we use to

CL9

1 prop the doors open. I pushed one over and propped
2 it on the door. I left him, he went to his
3 respective room. I left the room.

4 Q. After you left the room the initial time
5 that you put the cobblestone on the door, did there
6 come a time that day when you went back into that
7 room?

8 A. I passed it about three times within the
9 next five or eight minutes. I did not look,
10 something told me to look in. I saw a bunch -- it
11 looked like a bundle of rags, a little further in
12 there was a stove. At the foot of the stove there
13 was rags.

14 I took out my flashlight as I approached it, I
15 realized it was a body. As my light came up on the
16 stove it was an officer's hat with a badge on the
17 visor, my light was shining off of it. Then I heard
18 a radio. I looked down and I went around I saw the
19 blood. Then I realized I heard gurgling sounds. I
20 said this guy is still alive. I ran out that's when
21 I made my call.

22 Q. Who did you call?

23 A. I called first the Parkchester security
24 department, I couldn't get through. So I said the
25 hell with that, and I called 911, thinking this man

CL10

1 was still alive to get an ambulance over. I was not
2 thinking police, I was just thinking about getting an
3 ambulance here. I got through to them quick.

4 Q. Did you remain at the building until the
5 police and ambulance came?

6 A. The police asked me where I was calling
7 from. I told them Parkchester, 1700, I told them I'm
8 a maintenance man, I work there. He said hang on the
9 line. I stood on the line til they showed.

10 Q. Was the phone man also there when the
11 police came?

12 A. At that point I ran out, I didn't see him
13 if he was still in the opposite room. But while I
14 was making the call I saw the van coming on the other
15 side of the lane. I said, you remember when we
16 opened the door. He said, yes. I said there was a
17 body laying in there. He stopped his van in the
18 middle of the street and ran back. He ran back to
19 the van and he made a call also.

20 Q. Okay. When the police did finally arrive
21 were you still present, you spoke with them?

22 A. Yes, I was still outside waiting for them.
23 I was still on the line, on the phone with them.

24 MS. SCACCIA: Okay. At this time I do not have
25 any further questions of this witness.

CL11

1 Do the Members of the Grand Jury have any
2 questions?

3 Actually, Mr. Cobb, I do have a few more
4 questions for you.

5 Q. Were you there when the police arrived, did
6 there come a time when you saw Officer Maganello
7 return over there?

8 A. Yes, I did.

9 Q. Was the police with him at that point?

10 A. No, the security of Parkchester started
11 showing up after the police, but then he dashed in
12 with all the police officers, the New York City
13 Police Department and he wrangled his way through
14 them. Then he came back out which was less than a
15 minute, that's when they grabbed him.

16 Q. The officer you said grabbed him, were they
17 males or females officer, if you remember?

18 A. Male, mostly males, but there was two
19 females which was questioning him.

20 MS. SCACCIA: Now, I'm going to ask that these
21 two photographs be deem marked for identification
22 purposes as People's 1 and 2.

23 Q. Mr. Cobb, I'm going to ask you to take a
24 look the photographs that I deem marked Grand Jury
25 Exhibit number 1 for identification. Do you

CL12

1 recognize the area shown in this photograph?

2 A. Yes.

3 Q. What is that picture of?

4 A. Well, the building. The lower half of the
5 building itself, the entrance to the -- the back
6 entrance to the building which happens to be on the
7 main thoroughfare.

8 Q. Is that the entrance you described to us
9 you were attempting to enter while Officer Maganello
10 was walking out?

11 A. Yes.

12 Q. And, is that the way the building in that
13 area looked on the date that we have been speaking
14 about?

15 A. Yes, I'll remember that building for the
16 rest of my life.

17 Q. I want to ask you now to take a look at
18 that picture.

19 A. This is the door I propped open and the
20 stove is back there.

21 Q. Okay. Is that the way you understand that
22 the person was lying on the ground, more or less?

23 A. Except in front of the stove he was there
24 lying across the front of it.

25 MS. SCACCIA: Based on your testimony I'm going

CL13

1 to ask that these two exhibits be moved into evidence
2 for Grand Jury purpose as People's 1 and 2.

3 I will pass them around to the Jury in a moment.

4 Q. In this basement, Mr. Cobb, unless you had
5 a key to get in that basement from the outside can
6 you get in there without the key access?

7 A. I assume you can, anything is possible with
8 some difficulty if you don't have keys.

9 Q. By the way, the room that the victim was
10 lying in, does that room have any windows?

11 A. Yes, there is a window directly in front of
12 where the stove is.

13 Q. Again directly in front of the stove?

14 A. Yes.

15 Q. In this particular picture that we have in
16 evidence, now where the outside of the building is
17 shown, is that the same window?

18 A. Yes, the window I heard the shots, the
19 sounds coming from, before I approached the door to
20 get into the building.

21 Q. When you gave access to the Verizon man to
22 go into the room, did you have to physically unlock
23 the door with your key?

24 A. Yes, I tried several keys before I opened
25 it. I told him verbally, I'm going to try these

CL14

1 keys. I'm going to try to see if one of these will
2 work and sure enough one of them opened the door.

3 MS. SCACCIA: Seeing no show of hands, you can
4 step out.

5 (The photographs are being passed around to the
6 Grand Jury.)
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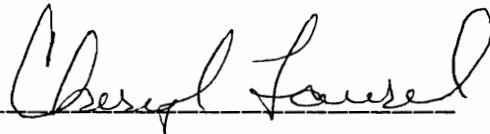
CL15

C E R T I F I C A T I O N

I, CHERYL LAUREL, a Grand Jury Reporter
within and for the State of New York, County of the
Bronx, do hereby certify:

That the within transcript is a true and
accurate record of the testimony given in the case of
the People of the State of New York versus
INVESTIGATION INTO THE DEATH OF ALBERT ACOSTA in the
F PANEL & 4TH TERM on APRIL 18, 2001.

IN WITNESS WHEREOF, I have hereunto set my
hand this 19TH day of APRIL, 2001.

A handwritten signature in cursive script, reading "Cheryl Laurel", is written over a horizontal line.

CHERYL LAUREL

TP1

PEOPLE VS ANTHONY MANGIELLO

A.D.A. SCACCIA/ 52 FROM:4/18/01

DATE: APRIL 23, 2001 F / 4

REPORTER: THALIA PHARMAKIDES

GJ #: 42, 140 DOCKET: IBNA

* * * * *

MS. SCACCIA: For the record, good afternoon,
ladies and gentlemen. My name is Christine Scaccia,
I am an Assistant District Attorney in Trial Division
52.

This is a continuation of the case of the
investigation into the death of Albert Acosta.

I would now ask the Grand Jury Foreperson to
determine whether a quorum is present.

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FOREPERSON: Let the record reflect that a
quorum is present.

MS. SCACCIA: The People now call Officer Perez.

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TP3

1 POLICE OFFICER PEREZ, after having been duly
2 sworn, testified as follows:

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4 EXAMINATION BY MS. SCACCIA:

5
6 Q. Officer, could you please state your name,
7 shield and command for the Members of the Grand Jury.

8 A. Police Officer Alex Perez, I work for the
9 43 Precinct, shield 13912.

10 Q. Now, directing your attention to February
11 12th of this year.

12 Were you working as a member of the 43 Precinct
13 on that date?

14 A. Yes.

15 Q. And what tour were you working?

16 A. Eight to four.

17 Q. Eight in the morning?

18 A. Seven-thirty in the morning until 3:40 in
19 the afternoon.

20 Q. And were you working alone or with a
21 partner?

22 A. Partner.

23 Q. And who was your partner?

24 A. Officer Nieves.

25 Q. And were you in uniform?

TP4

1 A. Uniform.

2 Q. And what was your assignment that date?

3 A. Patrol in a radio car.

4 Q. And I want to direct your attention more
5 specifically to 10:16 in the morning of February 12th
6 of this year.

7 Did you have occasion to receive a radio run?

8 A. Yes.

9 Q. And can you please tell the Grand Jury what
10 that radio run was about, and where you went after
11 hearing it?

12 A. I received a call in the radio stating that
13 an officer had been shot. At that point we received
14 another radio transmission that it was at 1700
15 Metropolitan, and it was an officer. And at that
16 point we raced over to that location.

17 Q. Upon your arrival at 1700 Metropolitan,
18 were you the first officers on the scene or were
19 there other --

20 A. There was two other cars there.

21 Q. And in addition to police personnel, were
22 there any civilians present at the scene?

23 A. Yes, Parkchester Maintenance.

24 Q. Upon your arrival at the scene, officer,
25 where did you go?

TP5

1 A. We all went into the corridor where the
2 basement was at.

3 Q. Did you go into a lobby door or the main
4 entrance, or a side door?

5 A. A back door, down the stairs and then into
6 the area into the room where the officer was shot.

7 Q. And now what was downstairs in that
8 basement area?

9 A. It's empty rooms in a basement.

10 Q. And now before you got to 1700 you had
11 information that an officer had been shot.

12 Did you know whether it was a Parkchester
13 security officer or NYPD?

14 A. We had no clue at that point.

15 Q. During the time that you responded there,
16 and even when you got there, was the identity of the
17 person that was shot known?

18 A. We didn't know who it was. We still assumed
19 it was a New York City Police Officer.

20 Q. And now did there come a point in time
21 well -- withdrawn.

22 What did you -- you walked inside of that
23 basement area. What happened?

24 A. We get into the basement, confirmed that
25 the gentleman was shot in the back of the head.

TP6

1 We're searching to see if he has a weapon of his own.
2 We're trying to figure out who he is, who he works
3 for.

4 At that point my partner sees that he's
5 Parkchester Police. While they're looking at him
6 looking in the area, I go into the other rooms, start
7 doing a canvass in the area seeing if there's any
8 weapons hidden, seeing if there's a person hanging
9 around. And at that point I stepped out and I
10 started to question people outside.

11 Q. And while you were outside speaking with
12 people, did you get to meet a person by the name of
13 Walter Cobb?

14 A. Yes, I had a conversation with Mr. Cobb.

15 Q. And now sometime after your conversation
16 with Mr. Cobb, does a security officer by the name of
17 Anthony Mangiello arrive on the scene?

18 A. A gentleman does walk up at that point. I
19 didn't know what his name was.

20 Q. Do you know his name now to be Anthony
21 Mangiello?

22 A. Yes.

23 Q. When he comes on the scene, does he come
24 out of a vehicle or on foot?

25 A. He comes out of the crowd.

TP7

1 Q. And can you describe to the Ladies and
2 Gentlemen of the Grand Jury what his appearance was
3 and with -- his demeanor was when he gets there?

4 A. Very disheveled. Very pale, sweating. At
5 one point we were going to call an ambulance for him.
6 He looked like he was ready to faint. And he had
7 dust all over his uniform.

8 Q. And now the dust, was it a particular
9 color?

10 A. It was white, dusty.

11 Q. And is his uniform a dark color?

12 A. It's the same color, a dark blue.

13 Q. And now did you -- when Officer Mangiello
14 comes there, do you have a conversation with him?

15 A. No, I didn't speak to him. My partner
16 ended up speaking to him.

17 Q. Up to that point in time, have you ever
18 heard the name Albert Acosta being mentioned as the
19 person what was shot?

20 A. No one mentioned anything about that.

21 Q. And other than the involvement that you
22 told us about here today, did you have any other
23 involvement with this?

24 A. No.

25

TP8

1 MS. SCACCIA: I have no further questions at this
2 time.

3 Do any Members of the Grand Jury have any
4 questions?

5 Seeing no show of hands, this witness is
6 excused. And the People will now call Police Officer
7 Nieves.

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TP9

1 POLICE OFFICER NIEVES, after having been duly
2 sworn, testified as follows:

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4 EXAMINATION BY MS. SCACCIA:

5
6 Q. Good afternoon, officer.

7 Could you please state your name, shield number
8 and command for the Members of the Grand Jury.

9 A. Police Officer Nieves, shield number 5089,
10 43rd Precinct.

11 Q. Directing your attention to February 12th
12 of this year.

13 Were you working as a member of the 43rd
14 Precinct?

15 A. Yes, I was.

16 Q. And what hours did you work?

17 A. Eight to four tour.

18 Q. And did you work with a partner?

19 A. Partner.

20 Q. Who was your partner?

21 A. Officer Perez.

22 Q. And were you in uniform or plainclothes?

23 A. Uniform.

24 Q. And what was your assignment that day?

25 A. Patrol in a marked police car.

TP10

1 Q. And now, officer, I want to direct your
2 attention approximately to 10:16 a.m. on the date of
3 February 12th of this year.

4 Did you have occasion to respond over to 1700
5 Metropolitan Avenue?

6 A. Yes.

7 Q. Can you tell us what brought you to that
8 location?

9 A. We had a radio run of a police officer
10 shot, 1013.

11 Q. And now when you responded to that
12 location, officer, were you the first officers on the
13 scene?

14 A. No.

15 Q. Okay, were there other officers --
16 department personnel there?

17 A. Yes.

18 Q. And, okay, and once you arrived there, can
19 you tell us where you went?

20 A. We went into the basement area of 1700
21 Metropolitan Avenue.

22 Q. What, if any, observations did you make
23 when you went into there?

24 A. We saw a male shot laying down on the
25 floor, face down in uniform.

TP11

1 Q. And this person who was laying down on the
2 floor, did you recognize what service he belonged,
3 was it in NYPD or was it --

4 A. Parkchester Security.

5 Q. And did you recognize who this man was,
6 officer?

7 A. I knew him from the area, yes.

8 Q. And now who was down located in the room
9 where Officer Acosta was found by you and the other
10 officers?

11 A. Say that again?

12 Q. What was downstairs in that room where he
13 was?

14 A. A stove and that's it.

15 Q. And would you please, with respect to his
16 uniform, Parkchester Police officers wear a uniform?

17 A. Yes.

18 Q. Was his uniform fully on him intact, or
19 were there items of his uniform in other places?

20 A. His memobook was on top of the stove and
21 his uniform jacket was in front of him as he laid on
22 the floor.

23 Q. And what about a uniform hat, did you see
24 one?

25 A. On the stove.

TP12

1 Q. And now did you remain in the room where
2 Officer Acosta was, or did you go somewhere else?

3 A. A few minutes. And then I went outside.

4 Q. What happened when you go outside?

5 A. As I was walking out I saw one of the
6 Parkchester officers, which was Anthony Mangiello,
7 coming in. I figured they work together. He said I
8 don't want to go in there. And he said that's my
9 partner in there.

10 Q. And now when you encountered Officer
11 Mangiello downstairs in that hallway area, could you
12 please describe what his demeanor was like?

13 A. He seemed in shock, sort of shaky, and
14 pale.

15 Q. And now up to this point, you, yourself had
16 gone and seen Officer Acosta on the floor?

17 A. Yes.

18 Q. Was there any broadcasting of Officer
19 Acosta's identity while you were present on the
20 scene?

21 A. Not that I had heard of.

22 Q. Were other Parkchester officers present at
23 the scene of the --

24 A. Eventually.

25 Q. Upon their arrival, to your knowledge, was

TP13

1 it known that Officer Acosta was the person inside
2 who had been shot?

3 A. No.

4 Q. When you saw Officer Mangiello entering
5 into the hallway area where the room where Officer
6 Acosta was located, did you make any note -- mental
7 note or otherwise, of the condition of his uniform or
8 did you notice anything unusual about it?

9 A. I saw dust, the white dust.

10 Q. And when you saw him, was he coming off of
11 the street or was he coming in from somewhere in the
12 building?

13 A. From outside the street.

14
15 MS. SCACCIA: I have no further questions of this
16 witness.

17 Do any Members of the Grand Jury have any
18 questions?

19
20 Q. Officer Nieves, when you arrived, you said
21 that other police personnel were on the scene?

22 A. Yes.

23 Q. Where were the other officers?

24 A. All running in. We were all running in at
25 the same time.

TP14

1 Q. And as you stayed in the area, were
2 officers in and around the room where Officer Acosta
3 was?

4 A. Yes.

5 Q. When you saw Officer Acosta on the floor,
6 can you please tell us what the position of his body
7 was? Was he face up? Face down?

8 A. He was lying face down, his face turned to
9 the left, and his jacket underneath him.

10 Q. He was lying on his stomach but his face
11 was turned?

12 A. Approximately on the side of his face.

13
14 MS. SCACCIA: Okay, seeing no show of hands, this
15 witness is also excused.

16 Thank you.
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TP15

C E R T I F I C A T I O N

I, THALIA PHARMAKIDES, a Grand Jury
Reporter within and for the State of New York,
County of the Bronx, do hereby certify:

That the within transcript is a true
and accurate record of the testimony given in the
case of the People of the State of New York
versus ANTHONY MANGIELLO in the F / 4 on APRIL 23,
2001.

IN WITNESS WHEREOF, I have hereunto set my
hand this 26TH day of APRIL, 2001.

A handwritten signature in cursive script, reading "Thalia Pharmakides", written over a horizontal line.

THALIA PHARMAKIDES

CL1

PEOPLE VS INVESTIGATION CASE

A.D.A. SCACCIA/TD50

FROM: 4/23/2001

DATE: APRIL 26, 2001

F PANEL & 4TH TERM

REPORTER: CHERYL LAUREL

GJ #: 42,140

DOCKET: 2001BX024949

* * * * *

MS. SCACCIA: For the record, good afternoon,
ladies and gentlemen, my name is Christine Scaccia,
I'm an Assistant District Attorney with Trial
Division 50

This is the case of the People of the State of
New York against Anthony Manganiello, also referred
to as an investigation into the death of
Albert Acosta

I would ask the Foreperson to determine whether
a quorum is present

THE FOREPERSON: Let the record reflect that a
quorum is present.

MS. SCACCIA: The People now call

CL2

Christopher Tartone.

CL3

1 CHRISTOPHER TARTONE, after having been duly
2 sworn, testified as follows:

3
4 EXAMINATION BY MS. SCACCIA:

5
6 Q. Mr. Tartone, can you please state your full
7 name and the county you live in.

8 A. Christopher Tartone, the Bronx.

9 Q. Okay. Mr. Tartone, are you employed?

10 A. Yes.

11 Q. Where do you work?

12 A. In the pizza shop.

13 Q. Where is that pizza shop located?

14 A. 1665 Metropolitan Avenue.

15 Q. Okay. How long have you worked there, sir?

16 A. About twelve years.

17 Q. Okay. Now, where is your pizza shop
18 located with respect to 1700 Metropolitan Avenue?

19 A. Two hundred yards, across the street from
20 there, the opposite side.

21 Q. Officer, during the course of the time you
22 worked in the pizza shop have you gotten to know any
23 of members of Parkchester either security or
24 maintenance?

25 A. Yes.

CL4

1 Q. What kind of contents did you get to know
2 them?

3 A. Just them eating, coming to the
4 establishment.

5 Q. During the course of your employment, did
6 you come to know a security officer by the name of
7 Anthony Manganiello?

8 A. Yes.

9 Q. Okay. How did you meet him?

10 A. Just coming in and eating.

11 Q. How long ago would you say you met
12 Mr. Manganiello?

13 A. Four years.

14 Q. How often would you see Mr. Manganiello?

15 A. Like once a month.

16 Q. Okay. I want to direct your attention now
17 to late January, early February of this year, did you
18 have an occasion to see Mr. Manganiello in your pizza
19 shop?

20 A. Yes.

21 Q. Okay. And could you tell the Members of
22 the Grand Jury during what time span on those
23 occasions you saw him at the end of January, the
24 beginning of February, what if anything took place
25 that was unusual?

CL5

1 A. He sat down with his coworker, I overheard
2 him asking if he knew anybody selling a gun.

3 Q. When you say he, who are you talking about
4 Anthony Manganiello?

5 A. Yes.

6 Q. And the person that he was speaking to, was
7 this person a male or female?

8 A. A male.

9 Q. Okay. Was he white, black, Hispanic, could
10 you tell?

11 A. Brown complexion, that's all I remember.

12 Q. You said he was with his coworker, was he
13 also a security guard or another sort of worker?

14 A. No, he was a porter. He was in a green
15 uniform, but he wasn't in a security uniform, no.

16 Q. Did you see what the other man responded?

17 A. No, I really kept making my pizza. I was
18 making a pie, I overheard, but I really can't tell
19 you what was said after that.

20 Q. Mr. Tartone, if you know in your encounters
21 with the Parkchester security, do Parkchester
22 security officers carry weapons?

23 A. No.

24 MS. SCACCIA: I have no further questions.

25 Do the Members of the Grand Jury have any

CL6

questions?

Seeing no show hands, I will excuse the witness.

Thank you.

CL7

1 MS. SCACCIA: For the record, good afternoon
2 ladies and gentlemen, my name is Christine Scaccia,
3 I'm an Assistant District Attorney in Trial Division
4 50.

5 This is a continuation of the case of the People
6 of the State of New York versus Anthony Manganiello,
7 also referred to as an investigation into the death
8 of Albert Acosta.

9 I would now ask the Foreperson to determine
10 whether a quorum is present.

11 THE FOREPERSON: Let the record reflect that a
12 quorum is present.

13 MS. SCACCIA: The People call Police Officer
14 Casiano.
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CL8

1 .
2 POLICE OFFICER CASIANO, after having been duly
3 sworn, testified as follows:
4

5 EXAMINATION BY MS. SCACCIA:
6

7 Q. Officer, can you please state your name,
8 rank, shield number and command for the Members of
9 the Grand Jury.

10 A. Police Officer Jose Casiano, shield number
11 14240, 43rd Precinct.

12 Q. Officer, how long have you worked for the
13 43rd Precinct?

14 A. I have worked there ten and a half years.

15 Q. I want to direct your attention to
16 February 12th of this year. Were you working as a
17 member of the 43rd Precinct on that date?

18 A. Yes, I was.

19 Q. What hours did you work?

20 A. I did a 705 by 1540 hours.

21 Q. Which is basically 8:00 to 4:00?

22 A. Yes.

23 Q. Did you work alone or with a partner?

24 A. I was working with a partner.

25 Q. Who was your partner?

CL9

1 A. Police Officer Kalmanowicz.

2 Q. Were you guys in uniform or plainclothes?

3 A. Uniform.

4 Q. What was your assignment that day?

5 A. We were doing a patrol that day.

6 Q. In a radio car or on foot?

7 A. Radio car.

8 Q. I want to direct your attention more
9 specifically to approximately 10:20 a.m., on that
10 day.

11 Did you have an occasion to respond to
12 1700 Metropolitan Avenue here in Bronx county.

13 A. Yes, we did.

14 Q. And, once you were there were you directed
15 into a particular portion of the building?

16 A. Yes.

17 Q. Where did you go?

18 A. We went into the basement of that building.

19 Q. What if anything did you see upon going
20 into the basement?

21 A. I observed an individual on the ground.

22 Q. Okay. The individual's condition appeared
23 to be what?

24 A. He appeared to be shot.

25 Q. Was the individual on the ground able to

CL10

1 respond in anyway?

2 A. No, ma'am.

3 Q. Did there come a time when you learned the
4 identity of this individual who had apparently been
5 shot?

6 A. Yes, ma'am.

7 Q. Do you recall what his name was?

8 A. Yes, Albert Acosta.

9 Q. Now, Officer, did there come a time when
10 you took into possession, into your possession any of
11 Mr. Acosta's possession?

12 A. Yes.

13 Q. What did you take into custody from him?

14 A. Well, I have to refresh my memory from my
15 memo book.

16 Q. Sure.

17 A. Yes, personal nature.

18 Q. Did it consist of his clothing and
19 identification?

20 A. Correct, clothing, jewelry and
21 identification card.

22 Q. Now, was Mr. Acosta removed from the
23 basement of 1700 Metropolitan Avenue at any point?

24 A. Yes, he was.

25 Q. Do you know where he was taken?

CL11

1 A. He was taken to Jacobi Hospital.

2 Q. Did you go with him, officer, or did you
3 remain at the scene?

4 A. I remained at the scene.

5 Q. The property that you eventually took
6 custody from Mr. Acosta's person, what if anything
7 did you do with that property?

8 A. I vouchered it.

9 MS. SCACCIA: I have no further questions of
10 this witness.

11 Do the Members of the Grand Jury have any
12 questions?

13 Seeing no show of hands, this witness is
14 excused.

15 Thank you.

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CL12

1 MS. SCACCIA: The People are now calling
2 Detective Luis Agostini.

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4 DETECTIVE LUIS AGOSTINI, after having been duly
5 sworn, testified as follows:

6
7 EXAMINATION BY MS. SCACCIA:

8
9 Q. Detective, can you please state your name,
10 rank, shield number and command for the Members of
11 the Grand Jury.

12 A. Detective Luis Agostini, shield number
13 1230, 43rd Detective Squad.

14 Q. Detective, how long have you been with the
15 43rd Detective Squad?

16 A. For approximately four years.

17 Q. Detective, I want to direct your attention
18 to February 12th of this year, were working as a
19 member of the 43rd Precinct Detective Squad?

20 A. Yes.

21 Q. And, did you have an occasion on that day
22 to become assigned to an investigation into the death
23 of Albert Acosta?

24 A. Yes.

25 Q. Now, I direct your attention to

CL13

1 approximately 10:30 a.m., on that day. Did you have
2 an occasion to respond over to 1700 Metropolitan
3 Avenue here in Bronx county.

4 A. Yes, I did.

5 Q. And, when you got there was Mr. Acosta
6 present at the scene?

7 A. No, he wasn't.

8 Q. Who was present at the scene?

9 A. Mainly the police.

10 Q. Did there come a time when you saw
11 Mr. Acosta someplace?

12 A. Yes.

13 Q. Where did you see him?

14 A. At Jacobi Hospital.

15 Q. When you got to Jacobi Hospital, what
16 condition was he in at that point?

17 A. At that time the doctors were working on
18 him.

19 Q. Were you able to speak to Mr. Acosta in
20 anyway?

21 A. No.

22 Q. Detective, as a result of you becoming
23 assigned the investigation into this case, did there
24 come a time when you became aware of or in the
25 custody of any items of ballistic nature that was

CL14

1 recovered?

2 A. Yes, I did.

3 Q. Can you tell the Members of the Grand Jury
4 what if any items of a Ballistic nature was recovered
5 pursuant to that investigation?

6 A. There was two, .22 caliber fragments that
7 was recovered from his head and two, .22 caliber
8 rounds on 1700 Metropolitan Avenue basement wall.

9 Q. Okay. And, other than the fragments and
10 bullets was there anything else of a Ballistic nature
11 recovered?

12 A. Yes, there were four, .22 caliber shells
13 recovered.

14 Q. Now, when you saw Mr. Acosta at Jacobi
15 Hospital you said doctors were still working on him,
16 he was alive?

17 A. Yes.

18 Q. Did there come a time when you were
19 notified of any change in his condition?

20 A. Yes.

21 Q. Was that in relation to the morning of
22 February 12th?

23 A. That was approximately late at night, that
24 same day.

25 Q. Okay. And, what was the change in

CL15

1 Mr. Acosta's condition?

2 A. That he had died.

3 Q. After you learned of Mr. Acosta's death,
4 did there come a time when you again saw Mr. Acosta?

5 A. Yes.

6 Q. What was his condition at that time?

7 A. He was dead.

8 Q. Now, Detective Agostini, again as part of
9 the investigation and your duties in this case, did
10 there come a time, when you came in possession of
11 Mr. Acosta's clothing items from the medical
12 examiner's office?

13 A. Yes, I did.

14 Q. Okay. And, was there a medical examiner's
15 case number assigned to Mr. Acosta's body and his
16 belongings?

17 A. Yes.

18 Q. Could you tell the Members of the Grand
19 Jury what the medical examiner's case number was?

20 A. It was 595 of the year 2001.

21 Q. Now, Detective, pursuant to this
22 investigation into this case, did there come a time,
23 when someone was placed into custody?

24 A. Yes, there was.

25 Q. Who was placed into custody?

CL16

1 A. Anthony Manganiello.

2 Q. Okay. Now, Detective, working within the
3 confines of the 43rd Precinct is Parkchester within
4 the 43rd Precinct?

5 A. Yes.

6 Q. Have you had some dealings with the
7 security officers from Parkchester prior to becoming
8 involved in this case?

9 A. Yes.

10 Q. Could you tell the ladies and gentlemen of
11 the Grand Jury whether or not Parkchester Police
12 Officers or security officers authorized to carry
13 weapons while they are on duty?

14 A. They are not.

15 Q. Detective, you indicated that two bullet
16 fragments were removed from his head?

17 A. Yes.

18 Q. Pursuant to this investigation, Detective,
19 the two bullet wounds that Mr. Acosta suffered was on
20 his body?

21 A. Yes.

22 Q. Where were they?

23 A. The two wounds were in back of the head.

24 MS. SCACCIA: I have no further questions of
25 this witness.

CL17

1 Do the Members of the Grand Jury have any
2 questions?

3 Seeing no show of hands, this witness is
4 excused.

5 Thank you.
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CL18

1 MS. SCACCIA: I'm now holding in my hands a
2 one-page document which I'm going to have deem marked
3 for identification as People's number 3 for the Grand
4 Jury purposes.

5 Reading from the certification on the bottom.

6 I certify that I personally examined the body on
7 February 14, 2001, at the Office of the Chief Medical
8 Examiner's.

9 It has the signature of Yvonne Milewski.

10 I now ask what was previously deem marked into
11 evidence for Grand Jury purposes.

12 Reading in pertinent part:

13 Name of decease: Albert Acosta.

14 Place of death, Bronx.

15 Date and hour of death: February 12, 2001.

16 Death was caused by gunshot wound to the head
17 with perforation of skull and brain.

18 Injury date: February 12, 2001.

19 Medical Examiner's case number assigned:

20 BX595 of the year 2001.

21 On the basis of examination and/or investigation
22 in my opinion, death occurred due to the causes and
23 manner as stated.

24 Certifier signature Dr. Yvonne Milewski, on
25 February 14, 2001.

CL19

1 Again Dr. Yvonne Milewski is the Deputy Chief
2 Medical Examiner in the Office of the Chief Medical
3 Examiner, City of New York, county of the Bronx.

4 That concludes the presentation of evidence to
5 the Grand Jury.

6 I would ask the Foreperson to instruct the jury
7 as to its voting requirements.

8 THE FOREPERSON: Let the record reflect that a
9 quorum is present.

10 The panel is reminded that only those Grand
11 Jurors who have heard all of the evidence presented
12 in this case may vote, and an affirmative action or
13 decision requires the concurrence of at least twelve
14 Grand Jurors thereto.

15 May I have a show of hands of all of the Grand
16 Jurors who heard all of the evidence.

17 Let the record reflect that at least twelve of
18 the Grand Jurors present heard all of the evidence
19 given in the case.

20 MS. SCACCIA: Ladies and gentlemen, I'm going to
21 remind you of the instruction I gave to you at the
22 beginning of the case regarding publicity.

23 I'm going to begin my legal instructions to you
24 by reading to you the circumstantial evidence charge
25 which applies to all of the charges I'm going to be

1 submitting to you today.

2 Evidence may be direct or circumstantial and I
3 will now explain the difference between these two
4 types of evidence.

5 Direct evidence is where a witness testifies to
6 what he saw, heard, smelled, tasted, or touched, in
7 other words, what he knows of his own knowledge.
8 Circumstantial evidence flows from direct evidence.
9 It is proof of a chain of circumstances from which
10 you may infer or conclude that a fact does exist.

11 When determining circumstantial evidence, you
12 may only draw an inference or conclusion from a fact
13 or facts proved by direct evidence. Circumstantial
14 evidence is of no less value than direct evidence,
15 for in either case you must be convinced that there
16 is reasonable cause to believe the defendant
17 committed the crimes.

18 Let me give you one example. Let us assume that
19 you entered this building earlier today, and it was a
20 clear day. Let us also assume that this room has no
21 windows. Now somebody walks into the room wearing a
22 wet raincoat and carrying a dripping umbrella. Based
23 on our assumption, you cannot look out of the room to
24 see whether or not it is raining, and if you are
25 asked if it is raining, you cannot say that you know

CL21

1 it directly of your own observation. But certainly
2 upon the combination of facts as given, even though
3 when you entered the building it was not raining
4 outside, it would be reasonable and logical for you
5 to conclude that it is raining now.

6 If inferences can be drawn from a fact directly
7 proved to you, one consistent with innocence and one
8 consistent with guilt, you must give the defendant
9 the benefit of the doubt. An indictment may rest
10 upon circumstantial evidence alone, but for this
11 there must be compliance with certain well
12 established facts:

13 First, the collateral fact, such as the umbrella
14 dripping water and a man with a wet raincoat, must be
15 proved to your satisfaction by direct evidence;.

16 Second, the direct evidence proven must be
17 sufficient to give rise to an inference, such as it
18 is now raining outside, which is logical, clear, and
19 strong;.

20 Third, you must determine whether the total
21 effect of all the circumstances directly proved
22 persuades that you there is reasonable cause to
23 believe that all the elements of each crime submitted
24 actually exists.

25 I'm going to ask you to consider one count of

CL22

1 murder in the second degree under Penal Law section
2 125.25, sub 1, intentional murder.

3 A person is guilty of murder in the second
4 degree when:

5 1. With intent to cause the death of another
6 person, he causes the death of such person or of a
7 third person.

8 A person acts intentionally with respect to a
9 result or to conduct described by a statute defining
10 an offense when his conscious objective is to cause
11 such result or to engage in such conduct.

12 I'm also going to ask you to consider one count
13 of murder in the second degree under depraved
14 indifference to human life, reading from Penal Law
15 section 125.25, subdivision 2.

16 A person is guilty of murder in the second
17 degree when:

18 2. Under circumstances evincing a depraved
19 indifference to human life, he recklessly engages in
20 conduct which creates a grave risk of death to
21 another person, and thereby causes the death of
22 another person.

23 Recklessly, A person acts recklessly with
24 respect to a result or to a circumstance described by
25 a statute defining an offense when he is aware of an

CL23

1 consciously disregards a substantial and
2 unjustifiable risk that such result will occur or
3 that such circumstance exists. The risk must be of
4 such nature and degree that disregard thereof
5 constitutes a gross deviation from the standard of
6 conduct that a reasonable person would observe in the
7 situation.

8 I'm going to now ask you to consider one count
9 of manslaughter in the first degree under subdivision
10 1, manslaughter in the first degree.

11 A person is guilty of manslaughter in the first
12 degree according to Penal Law section 125.20,
13 subdivision 1, when:

14 1. With intent to cause serious physical injury
15 to another person, he causes the death of such person
16 or of a third person.

17 I must define for you serious physical injury.

18 First of all physical injury means impairment of
19 physical condition or substantial pain.

20 Serious physical injury means physical injury
21 which creates a substantial risk of death, or which
22 causes death or serious and protracted disfigurement,
23 protracted impairment of health or protracted loss or
24 impairment of the function of any bodily organ.

25 Lastly, I'm asking you to consider one count of

CL24

1 criminal possession of a weapon in the second degree
2 under Penal Law section 265.03, subdivision 2.

3 A person is guilty of criminal possession of a
4 weapon in the second degree when, with intent to use
5 the same unlawfully against another:

6 2. He possesses a loaded firearm.

7 Loaded firearm is defined in Penal Law section
8 265.00.

9 Loaded firearm means any firearm loaded with
10 ammunition or any firearm which is possessed by one
11 who, at the same time, possesses a quantity of
12 ammunition which may be used to discharge such
13 firearm.

14 Firearm of course means any pistol or revolver.

15 Does anyone have any questions on the charges,
16 that I have asked you to consider?

17 Let the record reflect that the Court
18 Stenographer and I are stepping outside the Grand
19 Jury Chambers in order for the jury to conduct its
20 deliberations.

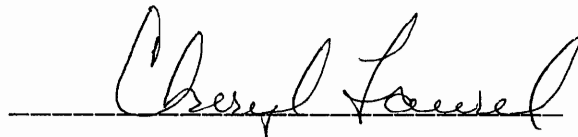
21 Thank you.
22
23
24
25

C E R T I F I C A T I O N

I, CHERYL LAUREL, a Grand Jury Reporter
within and for the State of New York, County of the
Bronx, do hereby certify:

That the within transcript is a true and
accurate record of the testimony given in the case of
the People of the State of New York versus
INVESTIGATION CASE in the F PANEL & 4TH TERM on
APRIL 26, 2001.

IN WITNESS WHEREOF, I have hereunto set my
hand this 27TH day of APRIL, 2001.

A handwritten signature in cursive script, reading "Cheryl Laurel", is written over a horizontal line.

CHERYL LAUREL